

AMENDED IN SENATE APRIL 19, 2006

**SENATE BILL**

**No. 1834**

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**Introduced by Senator Alarcon**

February 24, 2006

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An act to amend Section ~~7060~~ 7060.4 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1834, as amended, Alarcon. Housing: residential real property.

Existing law, the so-called Ellis Act, generally prohibits public entities from adopting any statute, ordinance, or regulation, or taking any administrative action, to compel the owner of residential real property to offer or to continue to offer accommodations, as defined, in the property for rent or lease. *Existing law authorizes a public entity to enact by ordinance or statute procedures for an owner to notify the entity of his or her intention to withdraw accommodations from rent or lease, including notice to the tenant. If the tenant is at least 62 years of age or disabled, as defined, and has lived in the accommodations for at least one year before the notice of intent to withdraw has been filed with the entity, the date of withdrawal of the accommodations from that tenant or lessee is extended for one year after delivery of the notice to the public entity.*

~~This bill would define "to go out of business" for purposes of these provisions.~~

*This bill would specify that when a tenant provides the owner with written notification of entitlement for the one-year extension based on age or disability, the tenant shall also provide written documentation supporting that entitlement. The bill would permit the owner to challenge a disability qualification and would specify examples of*

*documentation of the disability that the tenant may provide to the owner.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 7060.4 of the Government Code is*  
2     *amended to read:*

3     7060.4. (a) Any public entity which, by a valid exercise of its  
4     police power, has in effect any control or system of control on  
5     the price at which accommodations are offered for rent or lease,  
6     may require by statute or ordinance, or by regulation as specified  
7     in Section 7060.5, that the owner notify the entity of an intention  
8     to withdraw those accommodations from rent or lease and may  
9     require that the notice contain statements, under penalty of  
10    perjury, providing information on the number of  
11    accommodations, the address or location of those  
12    accommodations, the name or names of the tenants or lessees of  
13    the accommodations, and the rent applicable to each residential  
14    rental unit.

15    Information respecting the name or names of the tenants, the  
16    rent applicable to any residential rental unit, or the total number  
17    of accommodations, is confidential information and for purposes  
18    of this chapter shall be treated as confidential information by any  
19    public entity for purposes of the Information Practices Act of  
20    1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of  
21    Part 4 of Division 3 of the Civil Code). A public entity shall, to  
22    the extent required by the preceding sentence, be considered an  
23    “agency,” as defined by subdivision (d) of Section 1798.3 of the  
24    Civil Code.

25    (b) The statute, ordinance, or regulation of the public entity  
26    may require that the owner record with the county recorder a  
27    memorandum summarizing the provisions, other than the  
28    confidential provisions, of the notice in a form which shall be  
29    prescribed by the statute, ordinance, or regulation, and require a  
30    certification with that notice that actions have been initiated as  
31    required by law to terminate any existing tenancies. In that  
32    situation, the date on which the accommodations are withdrawn  
33    from rent or lease for purposes of this chapter is 120 days from

1 the delivery in person or by first-class mail of that notice to the  
2 public entity. However, if the tenant or lessee is at least 62 years  
3 of age or disabled, and has lived in his or her accommodations  
4 for at least one year prior to the date of delivery to the public  
5 entity of the notice of intent to withdraw pursuant to subdivision  
6 (a), then the date of withdrawal of the accommodations of that  
7 tenant or lessee shall be extended to one year after the date of  
8 delivery of that notice to the public entity, provided that the  
9 tenant or lessee gives written notice of his or her entitlement to  
10 an extension to the owner within 60 days of the date of delivery  
11 to the public entity of the notice of intent to withdraw. In that  
12 situation, the following provisions shall apply:

13 (1) The tenancy shall be continued on the same terms and  
14 conditions as existed on the date of delivery to the public entity  
15 of the notice of intent to withdraw, subject to any adjustments  
16 otherwise available under the system of control.

17 (2) No party shall be relieved of the duty to perform any  
18 obligation under the lease or rental agreement.

19 (3) The owner may elect to extend the date of withdrawal on  
20 any other accommodations up to one year after date of delivery  
21 to the public entity of the notice of intent to withdraw, subject to  
22 paragraphs (1) and (2).

23 (4) Within 30 days of the notification by the tenant or lessee to  
24 the owner of his or her entitlement to an extension, the owner  
25 shall give written notice to the public entity of the claim that the  
26 tenant or lessee is entitled to stay in their accommodations for  
27 one year after date of delivery to the public entity of the notice of  
28 intent to withdraw.

29 (5) Within 90 days of date of delivery to the public entity of  
30 the notice of intent to withdraw, the owner shall give written  
31 notice to the public entity and the affected tenant or lessee of the  
32 owner's election to extend the date of withdrawal and the new  
33 date of withdrawal under paragraph (3).

34 (c) The statute, ordinance, or regulation of the public entity  
35 adopted pursuant to subdivision (a) may also require the owner to  
36 notify any tenant or lessee displaced pursuant to this chapter of  
37 the following:

38 (1) That the public entity has been notified pursuant to  
39 subdivision (a).

1 (2) That the notice to the public entity specified the name and  
2 the amount of rent paid by the tenant or lessee as an occupant of  
3 the accommodations.

4 (3) The amount of rent the owner specified in the notice to the  
5 public entity.

6 (4) Notice to the tenant or lessee of his or her rights under  
7 paragraph (3) of subdivision (b) of Section 7060.2.

8 (5) Notice to the tenant or lessee of the following:

9 (A) (1) If the tenant or lessee is at least 62 years of age or  
10 disabled, and has lived in his or her accommodations for at least  
11 one year prior to the date of delivery to the public entity of the  
12 notice of intent to withdraw, then tenancy shall be extended to  
13 one year after date of delivery to the public entity of the notice of  
14 intent to withdraw, provided that the tenant or lessee gives  
15 written notice of his or her entitlement to the owner within 60  
16 days of date of delivery to the public entity of the notice of intent  
17 to withdraw.

18 (2) *When a tenant provides the owner with his or her written*  
19 *notification of his or her entitlement for the one-year extension,*  
20 *he or she shall also provide the owner with written support of his*  
21 *or her age or disability to the owner within 60 days of the date*  
22 *the notice of intent was filed. If the owner questions the tenant's*  
23 *documentation, the owner shall respond in writing and*  
24 *participate in an interactive process with the tenant to determine*  
25 *if the tenant qualifies for the one-year extension.*

26 *If the owner denies the tenant's request for the one-year*  
27 *extension, the owner shall use a good faith standard of*  
28 *evaluation, shall inform the tenant in writing, and shall include*  
29 *the reason why the disability does not qualify under Section*  
30 *12955.3.*

31 *Examples of documentation that the tenant may provide the*  
32 *owner in response to an owner's good faith request for*  
33 *information are a copy of their driver's license, passport, or*  
34 *birth certificate, a letter from the tenant's doctor or other health*  
35 *care provider identifying his or her disability or disability status,*  
36 *a medical record, proof of medication that the tenant is taking*  
37 *for the disability, a letter from a social worker, or a letter from a*  
38 *third party in a position to know the disability or any*  
39 *combination of these examples.*

1     *The owner may not request, and the tenant is not required to*  
2     *provide, information demonstrating age or disability that is*  
3     *considered confidential by any local, state, or federal law. The*  
4     *owner shall keep all information submitted by the tenant*  
5     *confidential unless there is litigation or an administrative*  
6     *proceeding regarding the tenant's eligibility as it pertains to the*  
7     *one-year extension.*

8     (B) The extended tenancy shall be continued on the same  
9     terms and conditions as existed on date of delivery to the public  
10    entity of the notice of intent to withdraw, subject to any  
11    adjustments otherwise available under the system of control.

12    (C) No party shall be relieved of the duty to perform any  
13    obligation under the lease or rental agreement during the  
14    extended tenancy.

15    (d) The statute, ordinance, or regulation of the public entity  
16    adopted pursuant to subdivision (a) may also require the owner to  
17    notify the public entity in writing of an intention to again offer  
18    the accommodations for rent or lease.

19    ~~SECTION 1. Section 7060 of the Government Code is~~  
20    ~~amended to read:~~

21    ~~7060. (a) No public entity, as defined in Section 811.2, shall,~~  
22    ~~by statute, ordinance, or regulation, or by administrative action~~  
23    ~~implementing any statute, ordinance or regulation, compel the~~  
24    ~~owner of any residential real property to offer, or to continue to~~  
25    ~~offer, accommodations in the property for rent or lease, except~~  
26    ~~for guestrooms or efficiency units within a residential hotel, as~~  
27    ~~defined in Section 50519 of the Health and Safety Code, if the~~  
28    ~~residential hotel meets all of the following conditions:~~

29    ~~(1) The residential hotel is located in a city and county, or in a~~  
30    ~~city with a population of over 1,000,000.~~

31    ~~(2) The residential hotel has a permit of occupancy issued~~  
32    ~~prior to January 1, 1990.~~

33    ~~(3) The residential hotel did not send a notice of intent to~~  
34    ~~withdraw the accommodations from rent or lease pursuant to~~  
35    ~~subdivision (a) of Section 7060.4 that was delivered to the public~~  
36    ~~entity prior to January 1, 2004.~~

37    ~~(b) For the purposes of this chapter, the following definitions~~  
38    ~~apply:~~

39    ~~(1) "Accommodations" means either of the following:~~

- 1     ~~(A) The residential rental units in any detached physical~~  
2     ~~structure containing four or more residential rental units.~~  
3     ~~(B) With respect to a detached physical structure containing~~  
4     ~~three or fewer residential rental units, the residential rental units~~  
5     ~~in that structure and in any other structure located on the same~~  
6     ~~parcel of land, including any detached physical structure~~  
7     ~~specified in subparagraph (A).~~  
8     ~~(2) “Disabled” means a person with a disability, as defined in~~  
9     ~~Section 12955.3.~~  
10    ~~(3) “To go out of business” means to discontinue in the~~  
11    ~~business or occupation of being a landlord.~~